

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-330-C - ORDER NO. 2000-0048  
JANUARY 12, 2000

IN RE: AT&T Communications of the Southern  
States, Inc., Complainant, vs. BellSouth  
Telecommunications, Inc., Respondent

) ORDER GRANTING  
) RECONSIDERATION,  
) VACATING AND  
) RESCINDING ORDER,  
) AND DISMISSING  
) COMPLAINT

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request for reconsideration by AT&T Communications of the Southern States (AT&T) of Order No. 1999-849, entitled "Order Consolidating Complaint Matter with Universal Service Fund Proceeding." Pursuant to the reasoning discussed below, we grant reconsideration, vacate and rescind Order No. 1999-849, and grant the Motion of BellSouth Telecommunications, Inc. (BellSouth) to Dismiss AT&T's Complaint, although without prejudice.

Order No. 1999-849 consolidated AT&T's Complaint regarding the level of BellSouth's access charges with our upcoming proceeding on the Universal Service Fund (USF). The basis for the consolidation was that access charges constitute an "implicit subsidy" for the provision of local telecommunications services, and that, as such, access charges should be considered along with all the other implicit subsidies in the context of a Universal Service Fund proceeding. In this way, all implicit subsidies could be considered at once, and the Commission could consider what "explicit subsidies" would be needed to replace these implicit subsidies at one time, rather than

piecemeal. The goal, of course, was to maintain continuous support for local telecommunications services. We stated that, under the circumstances, we saw no reason why the access charge and Universal Service Fund issues could not be considered together. We also denied BellSouth's Motion to Dismiss.

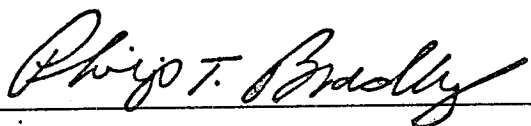
AT&T now requests reconsideration of Order No. 1999-849. AT&T objects to the indeterminate scheduling of the USF proceeding, and alleges that this delays the benefit to South Carolina's consumers of reducing BellSouth's access charges. Further, AT&T alleges that the indeterminate scheduling is inconsistent with the Commission's rules, and the consolidation of the access charge complaint with the USF proceeding does not serve any interest in efficiency. We do not agree with the grounds stated, and would otherwise likely deny the request, however, AT&T's request for reconsideration has prompted us to reexamine AT&T's original access charge complaint, and BellSouth's original Motion to Dismiss.

AT&T's Complaint is jurisdictionally grounded in part on S.C. Code Ann. Section 58-9-576 (Supp. 1998), according to language on page three of that Complaint. As AT&T states, Section 58-9-576(B)(5) notes that "The LEC's (Local Exchange Carriers) shall set rates for all other services on a basis that does not unreasonably discriminate between similarly situated customers; provided, however, that all such rates are subject to a complaint process for abuse of market position in accordance with guidelines to be adopted by the Commission." (emphasis added). We would note that no such guidelines have as yet been established by this Commission. A proceeding to consider these guidelines has been established, but, clearly, no guidelines have been approved by this Commission. It appears to us, upon reflection, that we cannot consider the substance of AT&T's complaint on access charges until we establish the guidelines called for by

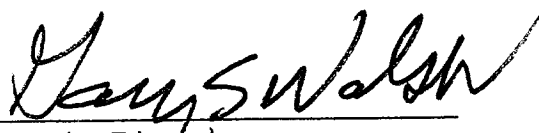
the statute. We believe that the guidelines set the standards under which we will hear complaints as to the “abuse of market position,” pursuant to the statutory language. Therefore, we lack subject matter jurisdiction at this time to hear the complaint. Accordingly, we grant the request for reconsideration of Order No. 1999-849, and vacate and rescind said Order. Further, consistent with the reasoning discussed herein, we grant BellSouth’s Motion to Dismiss, however, we grant it without prejudice. Procedurally, it would not be legal or proper to consider AT&T’s Complaint prior to establishment of the guidelines called for in S.C. Code Ann. Section 58-9-576 (Supp. 1998). AT&T may refile its Complaint after we establish said guidelines.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director  
(SEAL)